

EXHIBIT A

1 -- you told her -- told her to turn around?

2 A Yes.

3 Q Before you handcuffed her?

4 A Yes.

5 Q Now when you told her to turn around do you know what
6 Mister -- Officer Voss was doing, was he still holding
7 her at guard?

8 A I don't remember.

9 Q When she turned around what did you do with your
10 weapon, was that still pointed at her?

11 A Yes.

12 Q At what point did you lower your weapon and reach for
13 your handcuffs?

14 A Before I was ready to handcuff her.

15 Q Okay. So she backed up -- you said she backed up. How
16 far did she have to back up to reach where you were,
17 the 15 feet?

18 MS. JOHNSON: Foundation, speculation.

19 A I encountered her at 15 feet, so it's within that
20 range.

21 Q (By Mr. I. Zorea) At the time you -- or prior to
22 handcuffing her, did Ms. Mitchell resist any of your
23 commands?

24 A No.

25 Q Did she seem a flight risk?

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1 the bags in her hands or whether you -- on the ground?

2 A I don't remember.

3 Q What prompted you to place her in handcuffs?

4 A I placed her in handcuffs to detain her.

5 Q Could you have detained her without placing her in
6 handcuffs?

7 MS. JOHNSON: Objection, speculation.

8 A I could have, yes.

9 Q (By Mr. I. Zorea) During your training was there any
10 instruction on when it was an appropriate for an
11 officer to place somebody in handcuffs?

12 A Yes.

13 Q And what sort of instruction did you have concerning
14 when you could place somebody in handcuffs?

15 A It depends on the situation. In.....

16 Q (Indiscernible - simultaneous speech).....

17 Athis particular situation I'd information that a
18 armed bank robbery just occurred and someone matching
19 the description of the suspect walked out the doors.
20 It'd be appropriate for not only my safety, but the
21 safety of the public and the safety of that individual
22 to be placed in handcuffs.

23 Q So is it your testimony that you placed her in
24 handcuffs as a safety issue?

25 A That's one of the reasons.

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1 Q Whose safety were you concerned about?

2 MS. JOHNSON: Asked and answered.

3 A I mentioned my safety, the suspect's safety and the
4 safety if the individuals walking around the shopping
5 mall.

6 Q (By Mr. I. Zorea) On the inside of the shop- --
7 shopping mall or.....

8 A Anywhere.

9 Q Yet you testified earlier that you weren't in fear for
10 your safety though, were you?

11 A No, I wasn't. This is what I do for a living.

12 Q How were you protecting Ms. Mitchell's safety by
13 placing her in handcuffs?

14 A I was securing her so that -- it's been my experience
15 that a lot of individuals who may be armed may have
16 access to a weapon, while they're secured it eliminates
17 their access to a weapon, reduces any probability of
18 force.

19 Q After placing her in handcuffs I think you stated that
20 you did a pat down?

21 A Correct.

22 Q Okay. And what -- did the pat down reveal any weapons?

23 A No.

24 Q Did you look inside of the purse?

25 A Yes.

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1 Q Was there a weapon in her purse?

2 A No.

3 Q Approximately how long did it take for you to pat her
4 down and to look in her purse for weapons?

5 A I'd estimate 15 seconds.

6 Q Do you recall how long Ms. Mitchell was handcuffed?

7 A No.

8 Q Would you say that it was a matter of minutes or a
9 matter of seconds?

10 A Minutes.

11 Q What was your reasoning for keeping handcuffs on her
12 after you had ascertained that no weapons were on her
13 person or in her purse?

14 A We had officers at the time going around the Sears Mall
15 with the teller who was a witness to the bank robbery
16 conducting show ups. And Ms. Mitchell was detained
17 until the teller could arrive and view Ms. Mitchell and
18 determine if she was or was not the suspect in the bank
19 robbery.

20 Q Okay. Did -- didn't really answer my question. Why
21 did you keep the handcuffs on her after determining
22 that she didn't have any weapons?

23 A She was being detained.....

24 Q Okay.

25 Apending the show up.

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1 Q Is it required to have a person in detention, it is
2 required to keep them in handcuffs, is that a policy --
3 municipal policy?
4 A No, it's my decision. She still could have been the
5 bank robber.
6 Q During the time that she was handcuffed, do you recall
7 if Ms. Mitchell asked if she could make a telephone
8 call?
9 A I don't remember.
10 Q Do you recall if she said she was concerned about her
11 son?
12 A I believe she did.
13 Q Was that concern for her son directed at you or at
14 another officer?
15 A I don't remember who it was directed at.
16 Q And what sort of statements did she make regarding her
17 son?
18 A I don't remember the exact statements.
19 Q Did you give her any assurances as to her son's safety?
20 A I don't remember.
21 Q Do you recall news camera at any time arrived there on
22 the scene where Ms. Mitchell was?
23 A I believe the news media eventually showed up at the
24 mall. I wasn't paying attention to what they were
25 doing.

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1 Q Do you have an estimate of how long it took for the
2 bank teller to arrive at the scene to do a show up?
3 A I would estimate approximately 20 minutes.
4 Q Twenty minutes. And during this 20 minutes was Ms.
5 Mitchell in handcuffs the whole time?
6 A Yes.
7 Q Was Ms. Mitchell in custody?
8 A She was being detained.
9 Q Do you -- do you know what custody is, the term custody
10 means? Is that a term that they use in the police
11 department?
12 A Yes.
13 Q Okay. What -- what does custody mean?
14 A My view of custody is when someone is not free to
15 leave.
16 Q Okay. So was she in custody?
17 A Yes.
18 Q During the time that Ms. Mitchell was detained did you
19 ask her any questions?
20 A I asked her some basic questions regarding her
21 identity.
22 Q Did you ask her if she committed the bank robbery?
23 A No.
24 Q During the time that she was detained did you believe
25 that you were making an investigatory stop?

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1 A Yes.

2 Q And what was the purpose of that investigatory stop?

3 A To determine if the individual that I stopped was the
4 suspect in the bank robbery.

5 Q And if that was the purpose why is it that you didn't
6 ask her any questions about whether she had committed
7 robbery?

8 A I'm not going to ask any questions about the crime
9 unless I read Miranda.

10 Q Oh.

11 A Conduct an interview with her.

12 Q Okay.

13 A That wasn't the purpose of this stop.

14 Q Okay. The purpose was not to conduct an interview of
15 her?

16 A That's correct. The purpose was to await a show up
17 with the witness.

18 Q Okay. At the time that the witness arrived for the
19 show up how many officers do you believe were on the
20 scene at that time?

21 A I'm not sure exactly how many.

22 Q More than just you and.....

23 A Yes.

24 QOfficer Voss? Can you explain the loc- -- the
25 geography of where Ms. Mitchell was held during these

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1 scenarios were possible. They've happened in other
2 cases in the past. It's possible it could happen in
3 this one. I.....

4 Q Okay. I'm asking.....

5 Adon't know what Ms. Mitchell's capable of.
6 I've.....

7 Q Okay.

8 Anever met her.

9 Q Okay. But I'm asking whether or not you believe that
10 she would use her son as a hostage? Not whether it was
11 possible, I'm asking whether you had a realistic fear
12 that she was going to use her son as a hostage in this
13 situation?

14 MS. JOHNSON: Objection, relevance,
15 speculation, and foundation. And the witness has already
16 testified that his fears are not -- it's his procedures that
17 he's telling you.....

18 MR. I. ZOREA: Okay.

19 MS. JOHNSON:and the practicality.

20 MR. I. ZOREA: Just so -- you -- you keep on
21 objecting to relevance. Relevance has -- his credibility has
22 everything to do with relevance. Her emotional distress has
23 everything to do with -- with -- that's all relevant. And so,
24 you know, you can object but I'm asking him a question and I
25 expect him to answer, okay. So you can object for the record

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1 and that's fine. Go.....

2 MS. JOHNSON: Done so.

3 MR. I. ZOREA:right ahead.

4 Q (By Mr. I. Zorea) I'm asking you what was in your
5 brain.....

6 A As I mentioned before I -- I wasn't -- I wasn't in
7 fear.

8 Q You weren't in fear?

9 A No (ph).

10 Q You weren't in fear that she was going to use.....

11 A I wasn't --.....

12 Qher son as a hostage?

13 A I wasn't personally in fear, no.

14 Q Okay. Were you in fear -- 'cause you mentioned these
15 things on -- on her cross and I -- I want to clarify.

16 A Uh-hum.

17 Q Were you in fear that she was going to take a citizen
18 from the mall and use that citizen as a hostage if you
19 had released her from her handcuffs?

20 MS. JOHNSON: Same objections.

21 A I was not in fear.

22 Q Okay. Again, were you in fear she was going to
23 approach a vehicle, let's say, on Benson or on New
24 Seward and subdue whoever was in that vehicle and take
25 off from.....

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1 MS. JOHNSON: Same.....

2 Qthe scene?

3 MS. JOHNSON: Same objection.

4 A I was not in fear.

5 Q (By Mr. I. Zorea) Okay. Thank you. Again,
6 specifically, I'm asking specifically what was in your
7 head regarding movement of Ms. Mitchell? Where did you
8 think an arrest would occur if you had moved -- was
9 there a certain specific geographical distance from you
10 apprehended her or where you put her in detention that
11 you think if you had moved her beyond that that an
12 arrest would have occurred?

13 A No.

14 Q Okay. That wasn't really a concern of yours where you
15 moved her?

16 MS. JOHNSON: Objection, misstates the
17 testimony.

18 Q Well, I'm asking you was that an c- -- an actual
19 concern that if you had moved her a certain distance
20 then she would be arrested rather than just detained?

21 A I've reviewed case law where that's happened in
22 previous situations. And I chose not to move her.

23 Q Okay. So, again, we're -- we want specific. When you
24 chose -- when you made the decision not to move her
25 very far from where you handcuffed her, is that

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